

INGRAM YUZEK GAINEN CARROLL & BERTOLOTTI, LLP

250 PARK AVENUE
NEW YORK, NEW YORK 10177

Telephone (212) 907-9600

Facsimile (212) 907-9681

USDC SDNY
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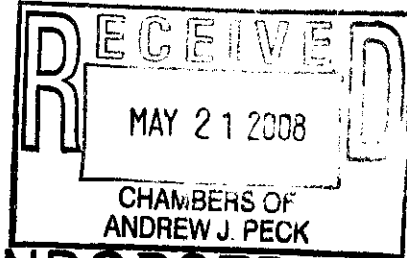
E-Mail: phewitt@ingramllp.com

May 21, 2008

(212) 907-9608

VIA FACSIMILE

Honorable Andrew J. Peck, U.S.M.J.
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007



MEMO ENDORSED *p2*

Re: **William A. Gross Construction Associates, Inc. v. American
Manufacturers Mutual Insurance Co. and other actions
07-CV-10639 (LAK) (AJP)**

Dear Judge Peck:

Having spoken to Ms. Gould this morning, and on consent of all parties, I am writing to ask the Court to reconsider its modification of the proposed briefing schedule for Fourth Party Defendant ("DASNY")'s motion to dismiss, which schedule was set forth in the attached letters from counsel for DASNY, and to restore the original schedule submitted by counsel.

Briefly, DASNY sought and received from Judge Kaplan an additional 45 days, to May 19, 2008, to respond to my client, Cauldwell Wingate's, fourth-party complaint. In granting this request, Judge Kaplan made it clear that discovery would nevertheless proceed.

When DASNY sought yet additional time, to June 6, 2008, I did not object, since counsel were able to work out a mutually agreeable briefing schedule for DASNY's anticipated motion that also took into account my unusually heavy work schedule in late June. Had we not been able to do that, I might otherwise have objected to DASNY'S request. This motion is of great significance to Cauldwell Wingate, since DASNY will be seeking the dismissal of most if not all of its approximately \$25 million claim, and the agreed-upon schedule allowed me to give our defense of that motion the full attention it warrants.

All counsel are in agreement that this motion briefing schedule should in no way prejudice or interfere with discovery, as both the Court and Judge Kaplan have directed. We

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have conferred pursuant to Rule 26(f), and are moving forward with discovery according to the schedule ordered by Judge Kaplan.

Accordingly, we respectfully request that the Court approve the original schedule agreed upon by counsel which was:

- (a) DASNY's motion to be served by June 6th;
- (b) opposition papers to be served by July 14th; and
- (c) reply papers to be served by August 11th.

Respectfully,



Patricia Hewitt

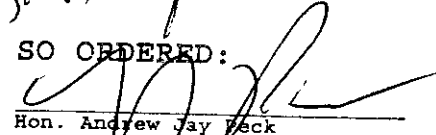
Enclosures

cc: Edwin M. Levy, Esq.
Carol A. Sigmond, Esq.
Vincent J. Zichello, Esq.

MEMO ENDORSED

re: last schedule, appears to be
proposed. 20 pages should
indicate that the motion is
not likely to be decided before the Fall,
and that parties not before the 11/1/07
with the court.

SO ORDERED:



Hon. Andrew Jay Beck
United States Magistrate Judge

cc: RA, Phil Gunt
Paul Hoyer

BY FAX

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: May 27, 2008

Total Number of Pages: 3

TO	FAX NUMBER
Carol A. Sigmond, Esq.	212-661-7769
Patricia Hewitt, Esq.	212-907-9681
Vincent J. Zichello, Esq.	212-972-5569
Edwin Levy, Esq.	212-788-8872

TRANSCRIPTION:

MEMO ENDORSED 5/27/08

The Court reluctantly approves the above briefing schedule. The parties obviously understand that this means the motion is not likely to be decided before the Fall, and quite possibly not before the 11/1 discovery cutoff date.

Copy to: Judge Lewis A. Kaplan